

Council Regulation (EC) No 1698/2005 of 20 September
2005 on support for rural development by the European
Agricultural Fund for Rural Development (EAFRD) (repealed)

TITLE IV

RURAL DEVELOPMENT SUPPORT

CHAPTER I

AXES

SECTION 1

Axis 1

Improving the competitiveness of the agricultural and forestry sector

Article 20

Measures

Support targeting the competitiveness of the agricultural and forestry sector shall concern:

- (a) measures aimed at promoting knowledge and improving human potential through:
 - (i) vocational training and information actions, including diffusion of scientific knowledge and innovative practises, for persons engaged in the agricultural, food and forestry sectors;
 - (ii) setting up of young farmers;
 - (iii) early retirement of farmers and farm workers;
 - (iv) use of advisory services by farmers and forest holders;
 - (v) setting up of farm management, farm relief and farm advisory services, as well as of forestry advisory services;
- (b) measures aimed at restructuring and developing physical potential and promoting innovation through:
 - (i) modernisation of agricultural holdings;
 - (ii) improving the economic value of forests;
 - (iii) adding value to agricultural and forestry products;
 - (iv) cooperation for development of new products, processes and technologies in the agriculture and food sector and in the forestry sector;

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

- (v) improving and developing infrastructure related to the development and adaptation of agriculture and forestry;
- (vi) restoring agricultural production potential damaged by natural disasters and introducing appropriate prevention actions;
- (c) measures aimed at improving the quality of agricultural production and products by:
 - (i) helping farmers to adapt to demanding standards based on Community legislation;
 - (ii) supporting farmers who participate in food quality schemes;
 - (iii) supporting producer groups for information and promotion activities for products under food quality schemes;
- (d) ^{F1}transitional measures concerning:
 - (i) supporting semi-subsistence agricultural holdings undergoing restructuring (for Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia);
 - (ii) supporting the setting up of producer groups (for Bulgaria, the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Romania, Slovenia and Slovakia);
 - (iii) supporting agricultural holdings undergoing restructuring, including diversification to activities outside agriculture, due to a reform of a common market organisation;]

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

SUBSECTION 1

Conditions for measures aimed at promoting knowledge and improving human potential

Article 21

Vocational training and information actions

Support provided for in Article 20(a)(i) shall not include courses of instruction or training which form part of normal programmes or systems of agricultural and forestry education at secondary or higher levels.

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 22

Setting up of young farmers

- 1 Support provided for in Article 20(a)(ii), shall be granted to persons who:
 - a are less than 40 years of age and are setting up for the first time on an agricultural holding as head of the holding;
 - b possess adequate occupational skills and competence;
 - c submit a business plan for the development of their farming activities.
- 2 The support shall be granted up to the maximum amount laid down in the [F1 Annex I]

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 23

Early retirement

- 1 Support provided for in Article 20(a)(iii), shall be granted:
 - a to farmers who decide to stop their agricultural activity for the purpose of transferring the holdings to other farmers;
 - b to farm workers who decide to stop all farm work definitively upon the transfer of the holding.
- 2 The transferor shall:
 - a be not less than 55 years old but not yet of normal retirement age at the time of transfer or not more than 10 years younger than the normal retirement age in the Member State concerned at the time of the transfer;
 - b stop all commercial farming activity definitively;
 - c have practised farming for the 10 years preceding transfer.
- 3 The transferee shall:
 - a succeed the transferor by setting up as provided for in Article 22; or
 - b be a farmer of less than 50 years old or a private law body and take over the agricultural holding released by the transferor to increase the size of the agricultural holding.
- 4 The farm worker shall:
 - a be not less than 55 years old but not yet of normal retirement age or not more than 10 years younger than the normal retirement age in the Member State concerned;
 - b have devoted at least half of his working time to farm work, during the preceding five years, as a family helper or farm worker;
 - c have worked on the transferor's agricultural holding for at least the equivalent of two years full-time during the four-year period preceding the early retirement of the transferor;
 - d belong to a social security scheme.

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

5 The total duration of early retirement support shall not exceed 15 years for the transferor and for the farm worker. It shall not go beyond the 70th birthday of the transferor and the normal retirement age of the farm worker.

Where, in the case of a transferor, a retirement pension is paid by the Member State, early retirement support shall be granted as a supplement taking into account the amount of the national retirement pension.

6 The maximum eligible amount of support is laid down in the [F1 Annex I].

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 24

Use of advisory services

1 Support provided for in Article 20(a)(iv) shall be granted in order to help farmers and forest holders to meet costs arising from the use of advisory services for the improvement of the overall performance of their holding.

As a minimum the advisory service to farmers shall cover:

- a the statutory management requirements and the good agricultural and environmental conditions provided for in Articles 4 and 5 of and in Annexes III and IV to Regulation (EC) No 1782/2003;
- b occupational safety standards based on Community legislation.

2 Support for the use of advisory services shall be limited to the maxima laid down in the [F1 Annex I].

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 25

Setting up of management, relief and advisory services

Support provided for in Article 20(a)(v) shall be granted in order to cover costs arising from the setting up of farm management, farm relief and farm advisory services as well as forestry advisory services and shall be degressive over a maximum period of five years from setting up.

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

SUBSECTION 2

Conditions for measures aimed at restructuring and developing physical potential and promoting innovation

Article 26

Modernisation of agricultural holdings

1 Support provided for in Article 20(b)(i), shall be granted for tangible and/or intangible investments which:

- a improve the overall performance of the agricultural holding; and
- b respect the Community standards applicable to the investment concerned.

Where investments are made in order to comply with Community standards, support may be granted only to those which are made in order to comply with newly introduced Community standards. In that case, a period of grace, not exceeding 36 months from the date on which the standard becomes mandatory for the agricultural holding, may be provided to meet that standard.

In the case of young farmers receiving support provided for in Article 20(a)(ii), support may be granted for investments to comply with existing Community standards, when identified in the business plan referred to in Article 22(1)(c). The period of grace within which the standard needs to be met, may not exceed 36 months from the date of setting up.

2 Support shall be limited to the maximum rate laid down in the [F¹Annex I].

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 27

Improvement of the economic value of forests

1 Investment support provided for in Article 20(b)(ii) shall be granted for forests owned by private owners or their associations or by municipalities or their associations. This limitation does not apply to the tropical or subtropical forests and to the wooded areas of the territories of the Azores, Madeira, the Canary Islands, the smaller Aegean Islands within the meaning of Regulation (EEC) No 2019/93 and the French overseas departments.

2 Investments shall be based on forest management plans for forest holdings above a certain size to be defined by the Member States in their programmes.

3 Support shall be limited to the maximum rate laid down in the [F¹Annex I].

Status: Point in time view as at 01/01/2009.

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Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 28

Adding value to agricultural and forestry products

1 Support provided for in Article 20(b)(iii), shall be granted for tangible and/or intangible investments which:

- a improve the overall performance of the enterprise;
- b concern:
 - the processing and/or marketing of products covered by Annex I to the Treaty, except fishery products, and of forestry products; and/or
 - the development of new products, processes and technologies linked to products covered by Annex I to the Treaty, except fishery products, and to forestry products; and
- c respect the Community standards applicable to the investment concerned.

Where investments are made in order to comply with Community standards, support may be granted only to those which are made by micro-enterprises, as referred in paragraph 2, in order to comply with a newly introduced Community standard. In that case a period of grace, not exceeding 36 months from the date on which the standard becomes mandatory for the enterprise, may be provided to meet the standard.

2 Support shall be limited to the maximum rate laid down in the [F1 Annex I].

3 Support under paragraph 1 at its maximum rate shall be limited to micro, small and medium- sized enterprises within the meaning of Commission Recommendation 2003/361/EC⁽¹⁾. For the territories of the Azores, Madeira, the Canary Islands, the smaller Aegean Islands within the meaning of Regulation (EEC) No 2019/93 and the French overseas departments, no size limits apply for the maximum rate. For enterprises that are not covered by Article 2(1) of that recommendation with less than 750 employees or with a turn over of less than EUR 200 million the maximum aid intensity is halved. In the case of forestry, support shall be limited to micro-enterprises.

Support shall not be granted to enterprises in difficulty within the meaning of the Community guidelines on State aid for rescuing and restructuring firms in difficulty⁽²⁾.

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Status: Point in time view as at 01/01/2009.

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Article 29

Cooperation for development of new products, processes and technologies in the agriculture and food sector and in the forestry sector

1 Support provided for in Article 20(b)(iv) shall be granted to promote the cooperation between primary producers in agriculture and forestry, the processing industry and/or third parties.

[^{F2}The cooperation shall involve at least two actors of which at least one is either a primary producer or belongs to the processing industry.]

2 Support shall contribute to cover costs incurred for the cooperation.

Textual Amendments

F2 Inserted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 30

Infrastructure related to the development and adaptation of agriculture and forestry

Support provided for in Article 20(b)(v), may cover notably operations related to access to farm and forest land, land consolidation and improvement, energy supply and water management.

SUBSECTION 3

Conditions for measures aiming to improve the quality of agricultural production and products

Article 31

Meeting standards based on Community legislation

1 Support provided for in Article 20(c)(i) shall contribute partly to costs incurred and income foregone caused to farmers who have to apply standards in the fields of the environmental protection, public health, animal and plant health, animal welfare and occupational safety.

These standards must be newly introduced in national legislation implementing Community law and impose new obligations or restrictions to farming practice which have a significant impact on typical farm operating costs and concern a significant number of farmers.

2 The support shall be granted as a flat-rate, temporary and degressive aid on an annual basis, for a maximum duration of five years from the date the standard becomes mandatory in

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accordance with Community legislation. Support shall be limited to the maximum amount laid down in the [F1Annex I].

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 32

Participation of farmers in food quality schemes

- 1 Support provided for in Article 20(c)(ii) shall:
 - a cover agricultural products only intended for human consumption;
 - b be for Community food quality schemes, or for those recognised by the Member States which comply with precise criteria to be defined in accordance with the procedure referred to in Article 90(2); schemes whose sole purpose is to provide a higher level of control of respect of obligatory standards under Community or national law shall not be eligible for support;
 - c be granted as an annual incentive payment whose level shall be determined according to the level of the fixed costs arising from participation in supported schemes, for a maximum duration of five years.
- 2 Support shall be limited to the maximum amount laid down in the [F1Annex I].

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 33

Information and promotion activities

Support provided for in Article 20(c)(iii) shall concern products covered by the support of the quality schemes referred to in Article 32. Support shall be limited to the maximum rate laid down in the [F1Annex I].

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Status: Point in time view as at 01/01/2009.

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Subsection 4

Conditions for transitional measures

Article 34

Semi-subsistence farming

- 1 Support provided for in Article 20(d)(i) to agricultural holdings which produce primarily for their own consumption and also market a proportion of their output (semi-subsistence agricultural holdings) shall be granted to farmers who submit a business plan.
- 2 Progress in respect of the business plan referred to in paragraph 1 shall be assessed after three years.
- 3 The support shall be paid in the form of a flat-rate aid up to the maximum amount specified in the [F1Annex I] and for a maximum of five years.
- 4 The support shall be granted in respect of applications approved by 31 December 2013.

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 35

Producer groups

- 1 Support provided for in Article 20(d)(ii) shall be granted in order to facilitate the setting up and administrative operation of producer groups for the purposes of:
 - a adapting the production and output of producers who are members of such groups to market requirements;
 - b jointly placing goods on the market, including preparation for sale, centralisation of sales and supply to bulk buyers;
 - c establishing common rules on production information, with particular regard to harvesting and availability.
- 2 The support shall be granted as a flat-rate aid in annual instalments for the first five years following the date on which the producer group was recognised. It shall be calculated on the basis of the group's annual marketed production, up to the ceilings set in the [F1Annex I].
- 3 The support shall be granted to producer groups which are officially recognised by the Member State's competent authority by 31 December 2013.

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

F² Article 35a

Holdings undergoing restructuring due to a reform of a common market organisation

1 Support provided for in Article 20(d)(iii) for agricultural holdings which undergo restructuring, including diversification outside agricultural activities, due to a reform of a common market organisation shall be granted to farmers whose direct payments are reduced as of 2010 by more than 25 % compared to 2009 in accordance with Regulation (EC) No 1782/2003 and who submit a business plan.

2 Progress in respect of the business plan referred to in paragraph 1 shall be assessed after twelve months.

3 The support shall be paid in the form of a degressive flat-rate aid and only in the years 2011, 2012 and 2013. The support shall be limited to the maximum amount laid down in Annex I and, in any event, shall not exceed 50 % of the reduction of direct payments compared to 2009 in accordance with Regulation (EC) No 1782/2003.]

Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

SECTION 2

Axis 2

Improving the environment and the countryside

Article 36

Measures

Support under this section shall concern:

- (a) measures targeting the sustainable use of agricultural land through:
 - (i) natural handicap payments to farmers in mountain areas;
 - (ii) payments to farmers in areas with handicaps, other than mountain areas;
 - (iii) Natura 2000 payments and payments linked to Directive 2000/60/EC;
 - (iv) agri-environment payments;
 - (v) animal welfare payments;
 - (vi) support for non-productive investments;
- (b) measures targeting the sustainable use of forestry land through:
 - (i) first afforestation of agricultural land;

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

- (ii) first establishment of agroforestry systems on agricultural land;
- (iii) first afforestation of non-agricultural land;
- (iv) Natura 2000 payments;
- (v) forest-environment payments;
- (vi) restoring forestry potential and introducing prevention actions;
- (vii) support for non-productive investments.

Subsection 1

Conditions for measures targeting the sustainable use of agricultural land

Article 37

Natural handicap payments in mountain areas and payments in other areas with handicaps

1 Payments provided for in Article 36(a)(i) and (ii) shall be granted annually per hectare of utilised agricultural area (hereinafter UAA) within the meaning of Commission Decision 2000/115/EC of 24 November 1999 relating to the definitions of the characteristics, the list of agricultural products, the exceptions to the definitions and the regions and districts regarding the surveys on the structure of agricultural holdings⁽³⁾.

Payments should compensate for farmers' additional costs and income forgone related to the handicap for agricultural production in the area concerned.

2 Payments shall be granted to farmers who undertake to pursue their farming activity in areas designated pursuant to Article 50(2) and (3) for at least five years from the first payment.

3 Payments shall be fixed between the minimum and maximum amount laid down in the [F1Annex I].

Payments higher than the maximum amount may be granted in duly justified cases provided that the average amount of all these payments granted at the Member State level concerned does not exceed this maximum amount.

4 Payments shall be degressive above a threshold level of area per holding, to be defined in the programme.

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 38

Natura 2000 payments and payments linked to Directive 2000/60/EC

1 Support provided for in Article 36(a)(iii), shall be granted annually and per hectare of UAA to farmers in order to compensate for costs incurred and income foregone resulting from disadvantages in the areas concerned related to the implementation of Directives 79/409/EEC, 92/43/EEC and 2000/60/EC.

2 Support shall be limited to the maximum amount laid down in the [F¹Annex I]. For payments linked to Directive 2000/60/EC, detailed rules, including the maximum amount of support, shall be fixed in accordance with the procedure referred to in Article 90(2).

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 39

Agri-environment payments

1 Member States shall make available support provided for in Article 36(a)(iv) throughout their territories, in accordance with their specific needs.

2 Agri-environment payments shall be granted to farmers who make on a voluntary basis agri-environmental commitments. Where duly justified to achieve environmental objectives, agri-environment payments may be granted to other land managers.

3 Agri-environment payments cover only those commitments going beyond the relevant mandatory standards established pursuant to Articles 4 and 5 of and Annexes III and IV to Regulation (EC) No 1782/2003 as well as minimum requirements for fertiliser and plant protection product use and other relevant mandatory requirements established by national legislation and identified in the programme.

These commitments shall be undertaken as a general rule for a period between five and seven years. Where necessary and justified, a longer period shall be determined according to the procedure referred to in Article 90(2) for particular types of commitments.

[F²Member States may put an end to such commitments, without obligation for the beneficiary concerned to reimburse support already received, provided that:

- a support under Regulation (EC) No 73/2009 is newly made available in the framework of which rules are applied which produce global agri-environmental effects equivalent to those of the agri-environmental measure which is closed;
- b such support is not financially less favourable for the beneficiary concerned;
- c the beneficiary concerned is informed of this possibility at the time he undertakes his commitments.]

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

4 The payments shall be granted annually and shall cover additional costs and income foregone resulting from the commitment made. Where necessary, they may cover also transaction cost.

Where appropriate, the beneficiaries may be selected on the basis of calls for tender, applying criteria of economic and environmental efficiency.

Support shall be limited to the maximum amount laid down in the [F1 Annex I].

5 Support may be provided for the conservation of genetic resources in agriculture for operations not covered by the provisions under paragraphs 1 to 4.

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).
- F2** Inserted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 40

Animal welfare payments

1 Animal welfare payments provided for in Article 36(a)(v) shall be granted to farmers who make on a voluntary basis animal welfare commitments.

2 Animal welfare payments cover only those commitments going beyond the relevant mandatory standards established pursuant to Article 4 of and Annex III to Regulation (EC) No 1782/2003 and other relevant mandatory requirements established by national legislation and identified in the programme.

These commitments shall be undertaken as a general rule for a period between five and seven years. Where necessary and justified, a longer period shall be determined according to the procedure referred to in Article 90(2) for particular types of commitments.

3 The payments shall be granted annually and shall cover additional costs and income foregone resulting from the commitment made. Where necessary, they may cover also transaction cost.

Support shall be limited to the maximum amount laid down in the [F1 Annex I].

Textual Amendments

- F1** Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 41

Non-productive investments

Support provided in Article 36(a)(vi) shall be granted for:

- (a) investments linked to the achievement of commitments undertaken pursuant to the measure provided for in Article 36(a)(iv) or other agri-environmental objectives;
- (b) on-farm investments which enhance the public amenity value of a Natura 2000 area or other high nature value areas to be defined in the programme.

Subsection 2

Conditions for measures targeting the sustainable use of forestry land

Article 42

General conditions

1 Support under this subsection shall be granted only for forests and wooded areas owned by private owners or by their associations or by municipalities or their associations. This limitation does not apply to the tropical or subtropical forests and to the wooded areas of the territories of the Azores, Madeira, the Canary Islands, the smaller Aegean Islands within the meaning of Regulation (EEC) No 2019/93 and the French overseas departments.

This restriction shall not apply to the support provided for in Article 36(b)(i), (iii), (vi) and (vii).

2 Measures proposed under this subsection in areas classified as high or medium forest fire risk within the framework of the Community action on protection of forests against fires shall conform to the forest protection plans established by the Member States for those areas.

Article 43

First afforestation of agricultural land

- 1 Support provided for in Article 36(b)(i), shall cover only one or more of the following:
 - a establishment costs;
 - b an annual premium per hectare afforested to contribute to covering maintenance costs for a maximum of five years,
 - c an annual premium per hectare to contribute to covering loss of income resulting from afforestation for a maximum of 15 years for farmers or associations thereof who worked the land before its afforestation or for any other natural person or private law body.
- 2 Support for the afforestation of agricultural land owned by public authorities shall cover only the cost of establishment. If the agricultural land to be afforested is rented by a natural person or private law body, the annual premiums referred to in paragraph 1 may be granted.
- 3 Support for the afforestation of agricultural land shall not be granted:
 - a for farmers benefiting from early retirement support;

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

b for the planting of Christmas trees.

In the case of fast-growing species for short-term cultivation, support for afforestation shall be granted for establishment costs only.

4 Support to farmers or other natural persons and private law bodies shall be limited to the maxima laid down in the [F1Annex I].

Textual Amendments

F1 Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 44

First establishment of agroforestry systems on agricultural land

1 Support provided for in Article 36(b)(ii), shall be granted to farmers to create agroforestry systems combining extensive agriculture and forestry systems. Support shall cover the establishment costs.

2 Agroforestry systems refer to land use systems in which trees are grown in combination with agriculture on the same land.

3 Christmas trees and fast-growing species for short-term cultivation shall be excluded from support.

4 Support shall be limited to the maximum rate laid down in the [F1Annex I].

Textual Amendments

F1 Substituted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 45

First afforestation of non-agricultural land

1 Support provided for in Article 36(b)(iii) for afforestation of land not eligible under Article 36(b)(i) shall cover the establishment costs. In the case of abandoned farmland, support shall also cover the annual premium as referred to in Article 43(1)(b).

2 Support shall not be granted for the planting of Christmas trees.

3 When support covering establishment costs is granted to natural persons or private law bodies, it shall be limited to the maximum rate laid down in the [F1Annex I].

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F1** Substituted by Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

Article 46

Natura 2000 payments

Support provided for in Article 36(b)(iv), shall be granted annually and per hectare of forest to private forest owners or associations thereof in order to compensate for costs incurred and income foregone resulting from the restrictions on the use of forests and other wooded land due to the implementation of Directives 79/409/EEC and 92/43/EEC in the area concerned. Support shall be fixed between the minimum and maximum amounts laid down in the ^{F1}Annex I].

Textual Amendments

- F1** Substituted by Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

Article 47

Forest-environment payments

1 Forest-environment payments provided for in Article 36(b)(v), shall be granted per hectare of forest to beneficiaries who make forest-environmental commitments on a voluntary basis. These payments shall cover only those commitments going beyond the relevant mandatory requirements.

These commitments shall be undertaken as a general rule for a period between five and seven years. Where necessary and justified, a longer period shall be determined in accordance with the procedure referred to in Article 90(2) for particular types of commitments.

2 The payments shall cover additional costs and income foregone resulting from the commitment made. Support shall be fixed between the minimum and maximum amounts laid down in the ^{F1}Annex I].

Textual Amendments

- F1** Substituted by Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

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Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Article 48

Restoring forestry potential and introducing prevention actions

1 Support provided for in Article 36(b)(vi), shall be granted for restoring forestry potential in forests damaged by natural disasters and fire and for introducing appropriate prevention actions.

2 Preventive actions against fires shall concern forests classified by the Member States as high or medium forest fire risk according to their forest protection plans.

Article 49

Non-productive investments

Support provided in Article 36(b)(vii), shall be granted for investments in forests:

- (a) linked to the achievement of commitments undertaken pursuant to the measure provided for in Article 36(b)(v), or other environmental objectives;
- (b) which enhance the public amenity value of forest and wooded land of the area concerned.

Subsection 3

Designation of areas

Article 50

Eligible areas

1 Member States shall designate the areas eligible for payments provided for in Article 36(a)(i), (ii) and (iii) as well as in Article 36(b)(i), (iii), (iv) and (vi), taking into account paragraphs 2 to 5 of this Article.

2 In order to be eligible for payments provided for in Article 36(a)(i) mountain areas shall be characterised by a considerable limitation of the possibilities for using the land and an appreciable increase in the cost of working it due to:

- a the existence, because of altitude, of very difficult climatic conditions, the effect of which is substantially to shorten the growing season;
- b at a lower altitude, the presence over the greater part of the area in question of slopes too steep for the use of machinery or requiring the use of very expensive special equipment, or a combination of these two factors, where the handicap resulting from each taken separately is less acute but the combination of the two gives rise to an equivalent handicap.

Areas north of the 62nd parallel and certain adjacent areas shall be regarded as mountain areas.

3 In order to be eligible for payments provided for in Article 36(a)(ii), areas other than mountain areas referred to in paragraph 2 of this Article must be:

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- a affected by significant natural handicaps, notably a low soil productivity or poor climate conditions and where maintaining extensive farming activity is important for the management of the land; or
- b affected by specific handicaps, and where land management should be continued in order to conserve or improve the environment, maintain the countryside and preserve the tourist potential of the area or in order to protect the coastline.

As concerns areas affected by specific handicaps referred to in point (b), they shall comprise farming areas which are homogeneous from the point of view of natural production conditions and their total extent shall not exceed 10 % of the area of the Member State concerned.

4 In the programmes, the Member States, according to specific provisions to be defined in accordance with the procedure referred to in Article 90(2), shall:

- confirm the existing delimitation pursuant to paragraphs 2 and 3(b) or amend it, or
- delimitate the areas referred to in paragraph 3(a).

5 Natura 2000 agricultural areas designated pursuant to Directives 79/409/EEC and 92/43/EEC and agricultural areas included in river basin management plans according to Directive 2000/60/EC shall be eligible for payments provided for in Article 36(a)(iii).

6 Areas apt for afforestation for environmental reasons such as protection against erosion or extension of forest resources contributing to climate change mitigation, shall be eligible for payments provided for in Article 36(b)(i) and (iii).

7 Natura 2000 forest areas designated pursuant to Directives 79/409/EEC and 92/43/EEC, shall be eligible for payments provided for in Article 36(b)(iv).

8 Forest areas with a medium to high forest fire risk shall be eligible for payments provided for in Article 36(b)(vi) relating to prevention actions against fires.

Subsection 4

Respect of standards

[^{F2}Article 50a

Main requirements

1 A beneficiary receiving payments under Article 36(a)(i) to (v) and Article 36(b)(i), (iv) and (v) shall respect, on the whole holding, the statutory management requirements and the good agricultural and environmental condition provided for in Articles 5 and 6 of, and in Annexes II and III to, Regulation (EC) No 73/2009.

The obligation to comply with the statutory management requirements and the good agricultural and environmental condition referred to in the first subparagraph shall not apply to non-agricultural activities on a holding and non-agricultural areas for which no support in accordance with Articles 36(b)(i), (iv) and (v) of this Regulation is claimed.

2 The competent national authority shall provide the beneficiary, *inter alia* by the use of electronic means, with the list of statutory management requirements and the good agricultural and environmental condition to be respected.]

Status: Point in time view as at 01/01/2009.

Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F2** Inserted by [Council Regulation \(EC\) No 74/2009 of 19 January 2009 amending Regulation \(EC\) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development \(EAFRD\)](#).

Article 51

Reduction or exclusion from payments

1 Where beneficiaries receiving payments under Article 36(a)(i) to (v) and Article 36(b)(i), (iv) and (v) do not respect on the whole holding, as a result of an action or omission directly attributable to them, the mandatory requirements provided for in Articles 4 and 5 of and in Annexes III and IV to Regulation (EC) No 1782/2003, the total amount of their payments to be granted in the calendar year in which the non-compliance occurs shall be reduced or cancelled.

The reduction or cancellation referred to in the first subparagraph shall also apply in cases where the beneficiaries receiving payments under Article 36(a)(iv) do not respect on the whole holding, as a result of an action or omission directly attributable to them, the minimum requirements for fertiliser and plant protection product use referred to in Article 39(3).

2 The reduction or cancellation of payments referred to in paragraph 1 shall not apply for standards for which a period of grace has been granted in accordance with Article 26(1)(b) during the period of grace.

3 By way of derogation from paragraph 1, for beneficiaries in Member States applying the single area payment scheme as provided for in Article 143b of Regulation (EC) No 1782/2003, the mandatory requirements to be respected are those provided for in Article 5 of and Annex IV to that Regulation.

[^{F3}The derogation provided for in the first subparagraph shall apply until 31 December 2008. As from 1 January 2009 a farmer receiving payments under the single area payment scheme shall respect the statutory management requirements referred to in Annex III to Regulation (EC) No 1782/2003 according to the following timetable:

- a requirements referred to in point A of Annex III shall apply from 1 January 2009;
- b requirements referred to in point B of Annex III shall apply from 1 January 2011;
- c requirements referred to in point C of Annex III shall apply from [^{F1}1 January 2013].

However, for Bulgaria and Romania, the application of Articles 3, 4, 6, 7 and 9 of Regulation (EC) No 1782/2003 shall be optional until 31 December 2011 insofar as those provisions relate to statutory management requirements. As from 1 January 2012 a farmer receiving payments under the single area payment scheme shall respect the statutory management requirements referred to in Annex III to Regulation (EC) No 1782/2003 according to the following timetable:

- a requirements referred to in point A of Annex III shall apply from 1 January 2012;
- b requirements referred to in point B of Annex III shall apply from 1 January 2014;
- c requirements referred to in point C of Annex III shall apply from [^{F1}1 January 2016].

The new Member States may also apply the option provided for in the second subparagraph where they decide to terminate the application of the single area payment

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scheme before the end of the period of application provided for in Article 143b(9) of Regulation (EC) No 1782/2003.]

4 Detailed rules for the reductions and exclusions shall be laid down in accordance with the procedure referred to in Article 90(2). In this context account shall be taken of the severity, extent, permanence and repetition of non-compliance.

5 Paragraphs 1 to 4 shall not apply to Article 39(5).

Textual Amendments

- F1** Substituted by Council Regulation (EC) No 74/2009 of 19 January 2009 amending Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).
- F3** Substituted by Council Regulation (EC) No 146/2008 of 14 February 2008 amending Regulation (EC) No 1782/2003 establishing common rules for direct support schemes under the common agricultural policy and establishing certain support schemes for farmers and Regulation (EC) No 1698/2005 on support for rural development by the European Agricultural Fund for Rural Development (EAFRD).

SECTION 3

Axis 3

The quality of life in rural areas and diversification of the rural economy

Article 52

Measures

Support under this section shall involve:

- (a) measures to diversify the rural economy, comprising:
- (i) diversification into non-agricultural activities,
 - (ii) support for the creation and development of micro-enterprises with a view to promoting entrepreneurship and developing the economic fabric,
 - (iii) encouragement of tourism activities;
- (b) measures to improve the quality of life in the rural areas, comprising:
- (i) basic services for the economy and rural population,
 - (ii) village renewal and development,
 - (iii) conservation and upgrading of the rural heritage;
- (c) a training and information measure for economic actors operating in the fields covered by axis 3;
- (d) a skills-acquisition and animation measure with a view to preparing and implementing a local development strategy.

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Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

Subsection 1

Conditions governing the measures to diversify the rural economy

Article 53

Diversification into non-agricultural activities

The aid beneficiary referred to in Article 52(a)(i) shall be a member of the farm household.

Article 54

Support for business creation and development

The support provided for in Article 52(a)(ii) shall relate only to micro-enterprises as defined in the Commission Recommendation 2003/361/EC.

Article 55

Encouragement of tourism activities

The support referred to in Article 52(a)(iii) shall cover the following:

- (a) small-scale infrastructure such as information centres and the signposting of tourist sites;
- (b) recreational infrastructure such as that offering access to natural areas, and small-capacity accommodation;
- (c) the development and/or marketing of tourism services relating to rural tourism.

Subsection 2

Conditions governing the measures to improve the quality of life in rural areas

Article 56

Basic services for the economy and rural population

The support referred to in Article 52(b)(i) shall cover the setting up of basic services, including cultural and leisure activities, concerning a village or group of villages, and related small-scale infrastructure.

Article 57

Conservation and upgrading of the rural heritage

The support referred to in Article 52(b)(iii) shall cover:

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- (a) the drawing-up of protection and management plans relating to Natura 2000 sites and other places of high natural value, environmental awareness actions and investments associated with maintenance, restoration and upgrading of the natural heritage and with the development of high natural value sites;
- (b) studies and investments associated with maintenance, restoration and upgrading of the cultural heritage such as the cultural features of villages and the rural landscape.

Subsection 3

Training, skills acquisition and animation

Article 58

Training and information

Support under Article 52(c), shall not include courses of instruction or training which form part of normal education programmes or systems at secondary or higher levels.

Article 59

Skills acquisition, animation and implementation

The support referred to in Article 52(d) shall cover:

- (a) studies of the area concerned;
- (b) measures to provide information about the area and the local development strategy;
- (c) the training of staff involved in the preparation and implementation of a local development strategy;
- (d) promotional events and the training of leaders;
- (e) implementation by public-private partnerships other than those defined by Article 62(1)(b) of the local development strategy encompassing one or more of the measures under Article 52(a), (b) and (c).

Subsection 4

Implementation of the axis

Article 60

Demarcation

Where a measure falling within this section targets operations eligible also under another Community support instrument, including the Structural Funds and the Community support instrument for fisheries, the Member State shall set in each programme the demarcation criteria for the operations supported by the EAFRD and those supported by the other Community support instrument.

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Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

SECTION 4

Axis 4

Leader

Article 61

Definition of the Leader approach

The Leader approach shall comprise at least the following elements:

- (a) area-based local development strategies intended for well-identified subregional rural territories;
- (b) local public-private partnerships (hereinafter local action groups);
- (c) bottom-up approach with a decision-making power for local action groups concerning the elaboration and implementation of local development strategies;
- (d) multi-sectoral design and implementation of the strategy based on the interaction between actors and projects of different sectors of the local economy;
- (e) implementation of innovative approaches;
- (f) implementation of cooperation projects;
- (g) networking of local partnerships.

Article 62

Local action groups

1 A partnered local development approach shall be implemented by the local action groups satisfying the following conditions:

- a they must propose an integrated local development strategy based at least on the elements set out in Article 61(a) to (d) and (g) and be responsible for its implementation;
- b they must consist of either a group already qualified for the Leader II⁽⁴⁾ or Leader+⁽⁵⁾ initiatives, or according to the Leader approach, or be a new group representing partners from the various locally based socioeconomic sectors in the territory concerned. At the decision-making level the economic and social partners, as well as other representatives of the civil society, such as farmers, rural women, young people and their associations, must make up at least 50 % of the local partnership;
- c they must show an ability to define and implement a development strategy for the area.

2 The Managing Authority shall ensure that the local action groups either select an administrative and financial lead actor able to administer public funds and ensure the satisfactory operation of the partnership, or come together in a legally constituted common structure the constitution of which guarantees the satisfactory operation of the partnership and the ability to administer public funds.

3 The area covered by the strategy shall be coherent and offer sufficient critical mass in terms of human, financial and economic resources to support a viable development strategy.

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Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

4 The local action groups shall choose the projects to be financed under the strategy. They may also select cooperation projects.

Article 63

Measures

The support granted under the Leader axis shall be for:

- (a) implementing local development strategies as referred to in Article 62(1)(a), with a view to achieving the objectives of one or more of the three other axes defined in Sections 1, 2 and 3;
- (b) implementing cooperation projects involving the objectives selected under point (a);
- (c) running the local action group, acquiring skills and animating the territory as referred to in Article 59.

Article 64

Implementing local strategies

If the operations under the local strategy correspond to the measures defined in this Regulation for the other axes, the relevant conditions shall apply in accordance with Sections 1, 2 and 3.

Article 65

Cooperation

1 The support referred to in Article 63(b) shall be granted to inter-territorial or transnational cooperation projects.

‘Inter-territorial cooperation’ means cooperation within a Member State. ‘Transnational cooperation’ means cooperation between territories in several Member States and with territories in third countries.

2 Only expenditure relating to the territories within the Community shall be eligible for support.

3 Article 64 shall also apply to cooperation projects.

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Changes to legislation: There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)

- (1) [OJ L 124, 20.5.2003, p. 36.](#)
- (2) [OJ C 244, 1.10.2004, p. 2.](#)
- (3) [OJ L 38, 12.2.2000, p. 1.](#) Decision as last amended by Regulation (EC) No 2139/2004 ([OJ L 369, 16.12.2004, p. 26](#)).
- (4) Commission notice to the Member States laying down guidelines for global grants or integrated operational programmes for which Member States are invited to submit applications for assistance in the framework of a Community initiative for rural development (Leader II) ([OJ C 180, 1.7.1994, p. 48](#)).
- (5) Commission notice to the Member States of 14 April 2000 laying down guidelines for the Community initiative for rural development (Leader+) ([OJ C 139, 18.5.2000, p. 5](#)). Notice as last amended by Commission communication amending the notice to the Member States of 14 April 2000 laying down guidelines for the Community Initiative for rural development (Leader+) ([OJ C 294, 4.12.2003, p. 11](#)).

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Changes to legislation:

There are outstanding changes not yet made to Council Regulation (EC) No 1698/2005 (repealed). Any changes that have already been made to the legislation appear in the content and are referenced with annotations.